

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant:	NAGDA, et al.	Patent Application	
Application No.:	10/000,121	Group Art Unit:	3629
Filed:	October 31, 2001	Examiner:	Casler, Traci
For:	AN INTEGRATED INFORMATION EXCHANGE SYSTEM FOR MATCHING SHIPPING DEMANDS AND CARRIER AVAILABILITY		

REPLY BRIEF

Appellants respectfully submit the following remarks in response to the Examiner's
Answer, which was mailed on February 1, 2011.

REMARKS

Appellants respectfully submit the following remarks in response to the Examiner's Answer. In these remarks, Appellants address certain arguments presented in the Examiner's Answer. While only certain arguments are addressed in this Reply Brief, this should not be construed to mean that Appellants agree with the other arguments presented in the Examiner's Answer.

(§10) Response to Argument: page 14 - page 17 of Examiner's Answer

With respect to the topic of Official Notice discussed in item 37 of the Examiner's Answer, Appellants continue to submit that the Office has not properly supported the "Official Notice." Without properly making the initial case of Official Notice, the burden should not shift to Appellants to dispute the position of the Office, technically or otherwise. Appellants are merely requesting that the Office Action supply some articulated reasoning to link the Official Notice to Appellants claimed system of Claim 5 (which would include all of the features of Claim 1). Instead, as discussed in the Appeal Brief (pages 17 and 18), the Office appears to be attempting to shift the burden of response to the Appellants prior to and without satisfying the Office's initial burden of citation of support and a rejection with articulated reasoning. Accordingly, Appellants respectfully request that the Board require the Office to provide adequate evidence in the form of articulated reasoning and an affidavit in support of the finding of Official Notice, in accordance with 37 CFR § 1.104(d)(2), a citation which supports the Official Notice, or require the Office to withdraw the Official Notice rejections with respect to Claims 5 and 34.

The Response to Arguments section indicates that “the Appellant argues the databases ‘separate’ from the location of the central database. As currently claimed, the claims do not claim the “databases,” at separate location, they simply claim them as belonging to different entities.” Applicants disagree that the Appeal Brief makes any argument for patentability that relies upon the claimed databases being at separate locations. Appellants agree that Claim 1 (and similarly Claim 30) indicate, “wherein said partner databases belong to partner exchange entities that are distinct from said carrier and shipper users of said information exchange system.”

The response to Arguments section directs attention to Figure 1C and col. 5, lines 20-60 of Hunt as being pertinent. Appellants disagree and direct attention to col. 5, lines 21-27, which indicate, “System 80 is comprised of subsystems 83, 85, and 87 and represents a network of direct point to point systems of a type that might be used in an intracompany environment, or in a shared network environment. The database could reside in any of the three subsystems 83, 85, or 87 or could be located in each of the subsystems...”(emphasis added). Appellants submit that an intracompany environment does not teach or suggest a partner database that belongs to a partner exchange entity that is distinct from said carrier and shipper users of said information exchange system, as is described in Claims 1 and 30. Nor would the mere mention of “a shared network environment” describe or in any way teach or suggest “wherein said partner databases belong to partner exchange entities that are distinct from said carrier and shipper users of said information exchange system, are registered with said integrated exchange computer, maintain information regarding shipping demand or carrier information separate from said database, and

provide access to said information to said integrated exchange computer via said application program interface” as recited in Claim 1 and similarly in Claim 30. Additionally, Appellants submit that discussion of a single database which may be located in one place or divided up and located at different places does nothing to teach or suggest both “a database” and “a plurality of partner databases” as are claimed in Claims 1 and 30.

Lastly, the Response to Arguments section contends that Appellants arguments do not comply with 37 CFR 1.111 because they amount to no more than a general allegation of patentability without pointing out how the language of the claims patentably distinguishes them from the references. Appellants categorically disagree with this statement, and submit that the arguments presented fully comply with 37 CFR 1.111. The Appeal Brief and previous Office Action responses, articulately detail what are believed to be numerous and substantial patentable differences between Appellants’ claims and the combined disclosures of Hunt, Williams, Theil, and Nel (the cited Art). The Appellants’ claims have been rejected as being obvious, thus it is true that Appellants do not point out differences and then contend that the claims are “novel.” However, Appellants do point out differences between Appellants’ claims and the teachings (or lack of teachings) in the cited art and combinations thereof which are believed to be non-obvious, and would thus indicate the patentability of Appellants’ claims.

CONCLUSION

For reasons presented above and for reasons previously presented in the Appeal Brief, Appellants continue to assert that the embodiments of the pending and appealed claims are not taught suggested or described by the cited art. Thus, Appellants respectfully request that the rejections the pending and appealed claims be reversed.

Appellants encourage the Examiner or a member of the Board of Patent Appeals to telephone the Appellants' undersigned representative if it is felt that a telephone conference could expedite prosecution.

Respectfully submitted,

WAGNER BLECHER LLP

Dated: April 1, 2011

/John P. Wagner, Jr./
John P. Wagner
Registration Number: 35,398

WAGNER BLECHER LLP
123 Westridge Drive
Watsonville, CA 95076
(408) 377-0500